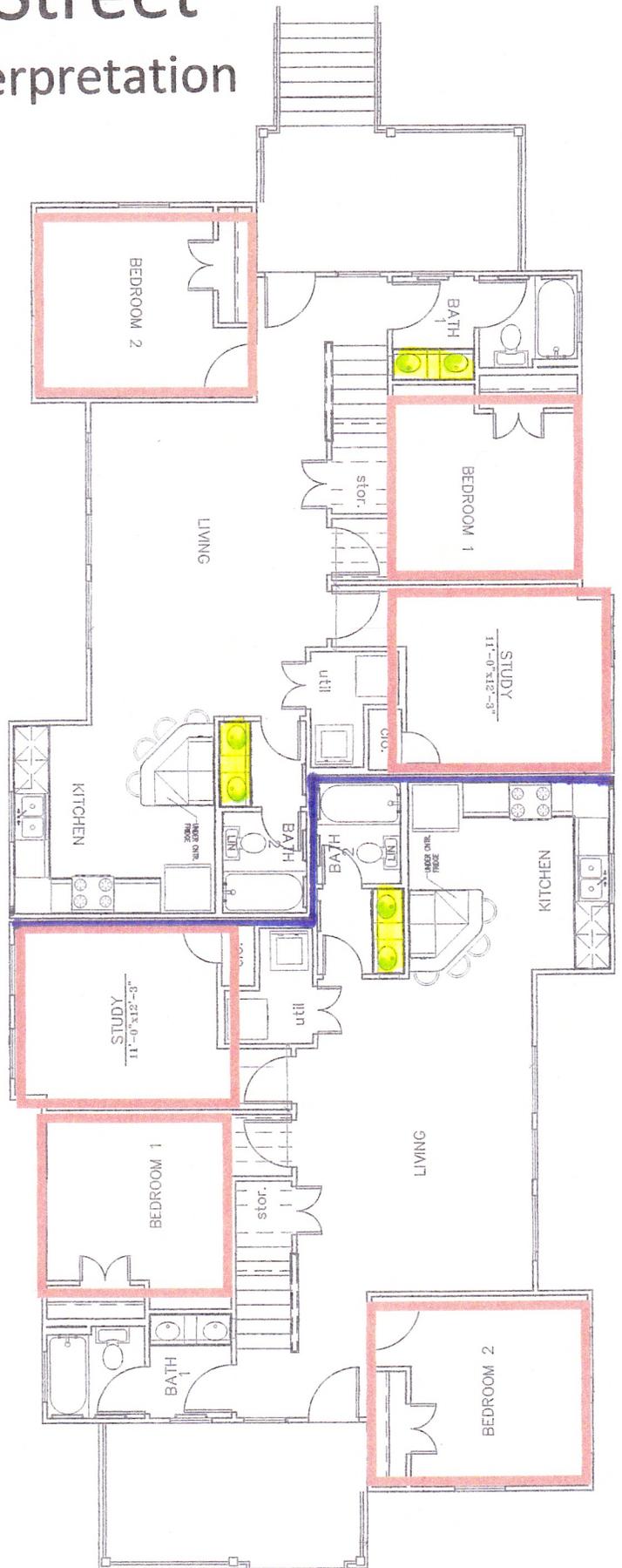
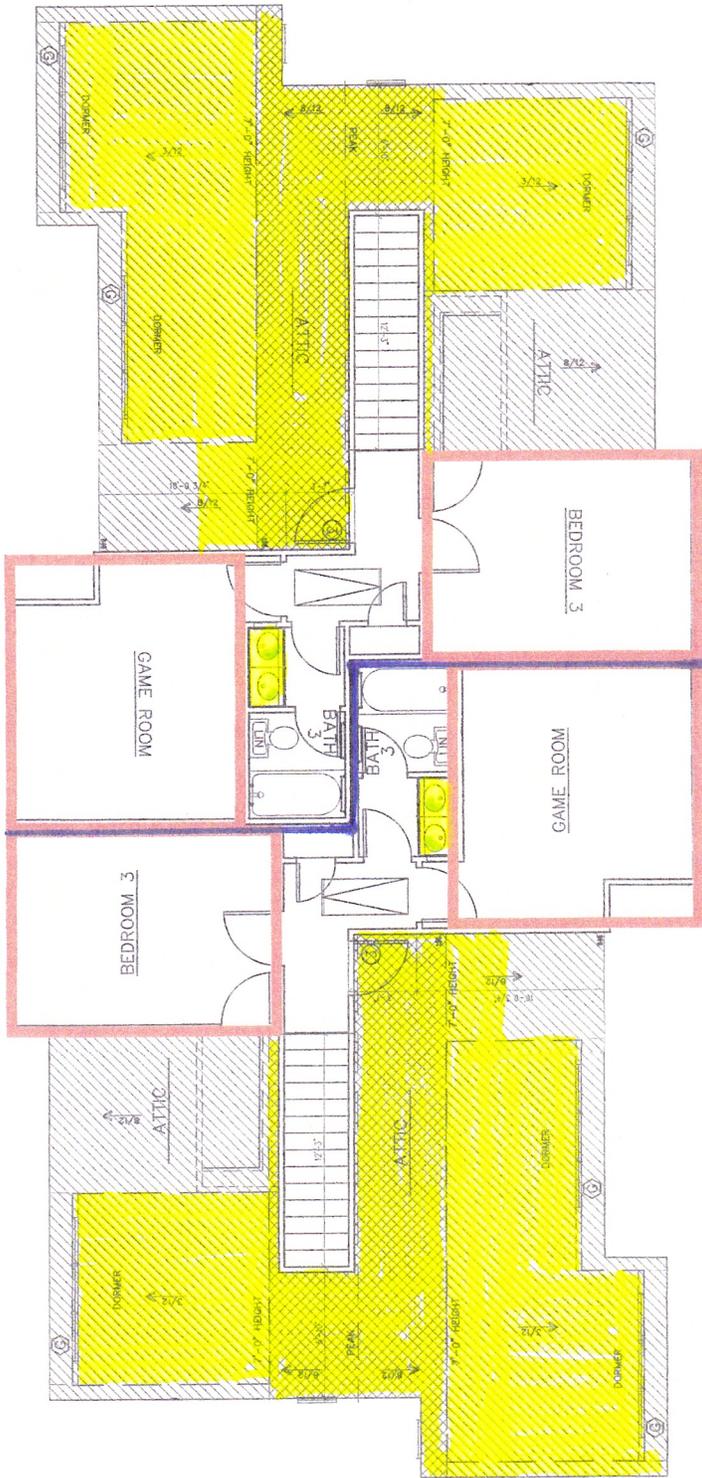


1917 David Street

BOA Appeal for Interpretation



Super-Duplex Ordinance

The ordinance was passed as an emergency measure, and took effect immediately upon its passage on June 5th, 2003.

When determining whether staff is interpreting terms used in the ordinance accurately, it must be taken into account what the intent of the ordinance was. The ordinance was passed to stop the development of duplexes intended to house more occupants than what was allowed by the occupancy limit – a maximum of three unrelated persons per side of a duplex.

In order to achieve that goal, the ordinance restricted the number of bedrooms to be in line with the maximum occupancy.

The ordinance does not say: “no more than three rooms may be used as bedrooms”. It says that the “structure” may not have more than three bedrooms. The restriction is on the structure itself, not on its use.

The ordinance also states that on a site with a lot area of less than 10,000 square feet, a duplex cannot exceed 4,000 square feet of gross floor area. This project, not only exceeds the number of bedrooms, but also the square footage. For that reason, bedrooms in excess of six are labeled as “gameroom/study” and space clearly intended to be habitable, is labeled as “storage”.

The mislabeling of these spaces is a blatant attempt to circumvent the Code.

Intent of Super Duplex Ordinance

The “poster child” of super duplexes during the time of the passage of the super duplex ordinance was 3500 Duval St.

To further evaluate the intent of the ordinance, we show the similarities between 1917 David and 3500 Duval. The ordinance was intended to prevent projects exactly like 1917 David St.



	3500 Duval St.	1917 David St.
Lot Size	8,448 sq ft	8,000 sq ft
Gross Floor Area	4,661	4,494 *
Bedrooms	12	10-14 **
Parking	12	4

* Not counting real attic, but counting 1294 sq ft of “storage”

** Depending on number of bedrooms in “storage area”

ORDINANCE NO. 030605-49

AN ORDINANCE AMENDING SECTIONS 25-2-511, 25-2-555, AND 25-2-981 OF THE CITY CODE AND REPEALING AND REPLACING SECTION 25-2-773 OF THE CITY CODE RELATING TO DUPLEX RESIDENTIAL USE; REPEALING ORDINANCE NUMBER 030227-28 AS AMENDED BY ORDINANCE NUMBER 030522-15; AND DECLARING AN EMERGENCY.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF AUSTIN:

PART 1. Section 25-2-511(A) of the City Code is amended to read as follows:

(A) Notwithstanding any other provision of this code, except [Except] as provided in Subsection (B):[;]

- (1) not more than six unrelated persons may reside in a dwelling unit; and
- (2) not more than three unrelated persons 18 years of age or older may reside in a dwelling unit of a duplex residential use, unless:
 - (a) before June 5, 2003:
 - (i) a building permit for the duplex structure was issued; or
 - (ii) the use was established; and
 - (b) after June 5, 2003 the gross floor area and the number of bedrooms in the duplex structure did not increase, except for the completion of construction authorized before that date.

PART 2. Section 25-2-555 of the City Code is amended to add a new Subsection (D) to read as follows:

(D) This subsection applies to a duplex residential use.

- (1) On a lot with a lot area of less than 10,000 square feet, a duplex structure may not exceed 4,000 square feet of gross floor area or contain more than six bedrooms.
- (2) On a lot with a lot area of 10,000 square feet or more, a duplex structure may not exceed a floor-to-area ratio of 0.57 to 1.

PART 3. Section 25-2-773 of the City Code is repealed and replaced by a new Section 25-2-773 to read as follows:

§ 25-2-773 DUPLEX RESIDENTIAL USE.

- (A) For a duplex residential use, the base zoning district regulations are superseded by the requirements of this section.
- (B) For a duplex residential use:
 - (1) minimum lot area is 7,000 square feet;
 - (2) minimum lot width is 50 feet;
 - (3) maximum building cover is 40 percent;
 - (4) maximum impervious cover is 45 percent; and
 - (5) maximum building height is the lesser of:
 - (a) 30 feet; or
 - (b) two stories.
- (C) Except as provided in Subsection (D), four parking spaces are required for a duplex residential use.
- (D) For a duplex that exceeds 4,000 square feet of gross floor area or has more than six bedrooms, the number of parking spaces required is the greater of:
 - (1) four; or
 - (2) one space for each bedroom.
- (E) Not more than one required parking space may be located behind another required parking space.

PART 4. Section 25-2-981(B) of the City Code is amended to read as follows:

- (B) This article does not apply to:
 - (1) property zoned central business district or downtown mixed use district;
 - (2) a lot containing one single-family residence;

- (3) a lot containing one duplex residence, unless the residence exceeds 4,000 square feet of gross floor area or has more than six bedrooms [~~with fewer than six bedrooms~~];
- (4) a two-family residential use;
- (5) a secondary apartment special use;
- (6) substantial restoration of a building within one year after the building is damaged;
- (7) restoration of a building with a historic designation; or
- (8) interior or facade remodeling, if the front and side exterior walls of the building remain in the same location.

PART 5. Ordinance Number 030227-28 as amended by Ordinance Number 030522-15 is repealed.

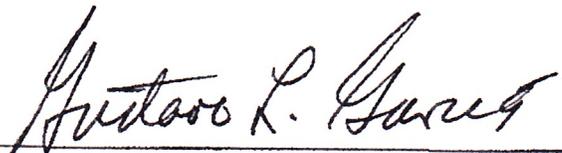
PART 6. The Council waives the requirements of Sections 2-2-3 and 2-2-7 of the City Code for this ordinance.

PART 7. The Council finds that the regulations in this ordinance are necessary to ensure that a duplex residential use is not established unless it is compatible with other nearby land uses. Because of this emergency, this ordinance takes effect immediately on its passage for the immediate preservation of the public peace, health, and safety.

PASSED AND APPROVED

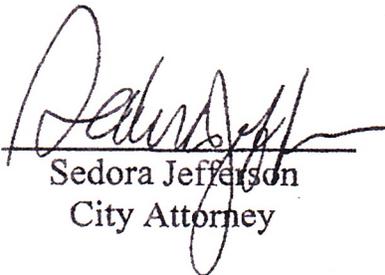
_____, June 5, 2003

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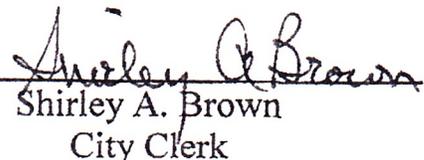
Gustavo L. Garcia
Mayor

APPROVED:



Sedora Jefferson
City Attorney

ATTEST:



Shirley A. Brown
City Clerk

The Label Game-

Attached are two examples of circumvention of the LDC by changing bedroom labels, both during the permitting process, and after obtaining a certificate of occupancy.

3005 Washington Ave, in the Heritage neighborhood, first submitted a set of plans, and then obtained final approval on another. There were no design changes, only the labels on bedrooms. From the first set to the second set, a "study" becomes a "gameroom" and a "bedroom" becomes a "study". Of course, this has nothing to do with the real intention for the spaces, to be bedrooms.

An example of a change in label after the permitting process is 2800 San Pedro, in the Shoalcrest Neighborhood. The plans clearly identify, just like 1917 David, a duplex with a total of 6 bedrooms and 6 bathrooms. Upon completion, the duplex is quickly rented out as a 10 bedroom 6 bathroom duplex, for a total of \$10,000/month.